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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SCHLAGE LOCK COMPANY,
Successor-in-Interest by merger to
KRYPTONITE CORPORATION,

Opposer,

v.

Opposition No. 120,885

O.L. PRODUCTS,

Applicant.

04-12-2004
U.S. Patent & TMO/TM Mail Rcpt Dt. #78

MOTION FOR SANCTIONS

Opposer, by its attorneys, hereby moves the Board for an order under 37 C.F.R. §2.120(g) and Fed. R. Civ. Pro. 37(b)(2) for sanctions against Applicant and specifically for an order entering a default judgment against Applicant. On May 7, 2003, Opposer filed a Motion to Compel Applicant to serve supplemental and/or amended answers to discovery requests and compelling Applicant to produce documents identified in Applicant's Responses to Opposer's First Request for Production of Documents. In connection with its Motion to Compel, Opposer also submitted the affidavit of Lori S. Meddings detailing the numerous attempts made by Opposer to coordinate the exchange of documents with Applicant and to obtain supplemental/amended answers to Opposer's discovery. Applicant has consistently been unresponsive and uncooperative with respect to these requests.

On August 11, 2003 the Board gave Applicant 30 days to respond to Opposer's Motion, or until September 10, 2003. Applicant did not file a response to Opposer's Motion to Compel and has not otherwise responded to Opposer's request to supplement and/or amend answers to

Opposer's discovery requests, or produced any documents in this case or responded to Opposer's requests to schedule a time to exchange documents.

On January 17, 2004, the Board issued an order granting Opposer's motion to compel as conceded by Applicant pursuant to 37 C.F.R. §2.127(a). Applicant was given 20 days from the date of that order, or until February 6, 2004, to provide supplemental answers and produce documents as described in Opposer's motion. Applicant has not complied with the Board's January 17, 2004 order, and has not provided Opposer nor the Board any reason for its failure to respond or comply. Opposer submits that Applicant's unresponsiveness indicates that it has no intention of responding to Opposer's requests to supplement or amend its discovery responses, produce documents, or otherwise defend this opposition. As a result, the appropriate sanction in this case is the entry of a default judgment against Applicant. *See Ingalls Shipbuilding, Inc. v. United States, supra*; *MHW Ltd. v. Simex, Aussenhandelsgesellschaft Savelsberg KG*, 59 USPQ2d 1477 (TTAB 2000) (repeated failure to comply with orders and unpersuasive reasons for delay resulted in entry of judgment); *Baron Philippe de Rothchild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 USPQ2d 1848, 1854 (TTAB 2000) (pattern of dilatory conduct indicated willful disregard of Board order and resulted in entry of judgment).

Opposer further moves the Board to suspend these proceedings pending the outcome of this potentially dispositive motion. In the event that Opposer's motion is not granted, Opposer requests that the Board reset Opposer's testimony period as well as the other dates in this action.

Dated this 8th day of April 2004.

MICHAEL BEST & FRIEDRICH LLP
Attorneys for Opposer

By:

A handwritten signature in black ink, appearing to read "Lori S. Meddings", written over a horizontal line.

Dyann L. Kostello
Lori S. Meddings

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CERTIFICATE OF SERVICE

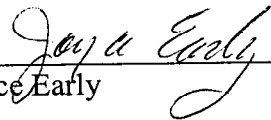
This is to certify that on April 8, 2004, I mailed via first class, prepaid mail, to Applicant's attorney at the address listed below

Jeffrey Sherman, Esq.
3874 Tampa Road
Oldsmar, FL 34677

a copy of the attached Motion Sanctions.

and that the original of said document was filed on the same day with the TTAB by sending the same via First Class Mail, postage prepaid, as addressed to:

Trademark Trial and Appeal Board
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513


Joyce Early

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